Supreme Court, U. S.
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No. 75-129

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

GARY SUCHY,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITIONER'S REPLY

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I

In footnote 4 respondent asserts that *United States v Lucido* is inapposite because "the Court of Appeals found no independent evidence to support the defendant's conviction on the substantive count." That simply is not true. There was evidence to support the substantive count, and that is precisely why, in reversing the conviction, the *Lucido* Court ordered a new trial rather than dismissal of the indictment.

II.

In its response to our Amended Petition, the government does not urge a remand for an evidentiary hearing, appar-

ently conceding that "there is substantial evidence that [petitioner] may have been [denied proper representation on appeal] (pp 3-4). Instead, the government suggests that petitioner be allowed to file a motion for rehearing with the Court of Appeals to allow it to determine "whether further briefing and [oral] argument are necessary."

Such limited relief is entirely inappropriate and inadequate. Petitioner is entitled to a full appeal—a calendar brief prepared by an advocate for his cause and oral argument of the issues raised. The Court of Appeals sitting in banc assisted by all of its parajudicial aids in reviewing the record could not provide an adequate substitute. *Anders v California,* 386 US 738 (1967); *Ellis v United States,* 356 US 674 (1958).

If this Court does not wish to grant plenary review of either of our questions, only vacation of the judgment below and full reargument of the appeal would vindicate petitioner's right to counsel.

The panel below has already expressed its opinion on our *Lucido* issue. This was on the Court's own initiative. Petitioner's "lawyer" didn't cite *Lucido* to the Court or even mention in his brief the issue decided in *Lucido.* In order for petitioner to have a fair hearing of his appeal, it should be before a panel whose members have expressed no opinion on the issues of the appeal.

Respectfully submitted,

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